UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/NGO/179
13 March 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 7 of the provisional agenda

THE RIGHT TO DEVELOPMENT

Written statement*/ submitted by Human Rights Advocates, Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 March 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

1. Mr. Arjun K. Sengupta, independent expert on the right to development, emphasized in his study on the current state of progress in the implementation of the right to development that all economic, social and cultural rights as well as civil and political rights come under the heading of development. An integrated approach to these rights is therefore needed. Mr. Sengupta recommended that a place to start in realizing the right to development is to focus on the rights to food and primary health care as minimum measurements of realization.[1] These rights, firmly established in the International Covenant on Economic Social and Cultural Rights, are the most basic of human needs and ought to be given a high priority in the use of States' resources. As discussed below, environmental degradation contributes directly to violation of some of these rights.
2. This era of globalization presents new challenges to the protection and promotion of human rights. International lending institutions such as the World Bank continue to look at development in terms of gross national product which often excludes factors of health, welfare, and the environment. The proliferation of international trade agreements and the growing influence of the World Trade Organization (WTO) have resulted in elaborate frameworks for compliance with free trade rules while the impact of economic liberalization on human rights and the environment often is ignored.
3. The policies of the World Bank have the outward appearance of concern for human rights and the environment and such efforts are to be commended. However, the actual effectiveness of implementation of such policies has not been clear. Although the World Bank established the Global Environment Facility (GEF) with the intention of bringing more attention to environmental concerns, an evaluation of GEF by an independent panel found "'a consistent, biased exaggeration, if not falsification, of the amount of consultation and participation with governments, NGOs, and affected communities in the project documents.'"[2] Additionally, the World Bank's original policy on displacement of tribal peoples voiced positive goals but has not been implemented as planned.[3]
4. International bank lending grew from $265 billion in 1975 to $4.2 trillion in 1994.[4] The ability of the World Bank to lend money in such large numbers is a strong tool for gaining compliance with human rights and should be used to that effect. The Bank's policies have not done enough to ensure protection of these rights.
5. Similarly, the strong desire of states to participate in the benefits of free trade can be used as an incentive to work towards realization of the right to development. There

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[1]Open-ended Working Group on the Right to Development, Geneva, 13-17 September, 1999. U.N. Doc. E/CN.4/1999/WG.18/2

[2]Catherine Caufield. *Masters of Illusion: The World Bank and the Poverty of Nations*. 268-69 (Henry Holt and Company: New York) (1996).

[3]Kevin Danaher. *50 Years Is Enough: the case against the World Bank and the International Monetary Fund.* 115 (South End Press: Boston) (1994).

[4] Human Development Report 1999, United Nations Development Programme.

must be a mechanism for interaction between these international institutions and human rights protections.

6. The following cases demonstrate the adverse impact on human rights and the environment resulting from policies of the World Bank and international trade pact provisions.
7. The Ecudorian Oriente is a rainforest beneath the Andes Mountains that forms the eastern half of Ecuador.[5] Oil is one of the principal sources of income for Ecuador as well as a source of environmental damage to the Amazon region's ecosystem.[6] The World Bank provided a $20 million loan to Ecuador that helped it adopt legal reforms to make it more attractive to foreign oil companies that were needed to exploit the oil reserves under the rainforest.[7] The Trans-Ecuadorian Pipeline is responsible for spills in the amount of 16.8 million gallons and Texaco discharged 4.3 million gallons of toxic "produced water" per day into the region that has found its way into the local streams and rivers. When the ground storage overflowed from the dumping, Texaco burned off the excess which resulted in air pollution and "black rain".[8] The contamination of the air and water has been catastrophic to the local peoples. Indigenous tribes in the Oriente have suffered from chronic skin irritations, an increase in birth defects and concentrated waves of cancer.[9] This constitutes a direct violation of the rights to physical and mental health embodied in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).
8. The Yadana Pipeline carries natural gas from Burma (Myanmar) to Thailand's Ratchaburi power plant. The recession in Thailand has resulted in delay in completing this plant which has caused a temporary lapse in its contract obligations to Burma for consuming natural gas.[10] As part of a financial package to Thailand in assistance of recovery from the Asian currency crisis, the World Bank agreed to fund the completion of the Ratchaburi power plant despite objections from human rights organizations and environmentalists. These organizations raised concerns that the Yadana pipeline had been the subject of numerous human rights abuses including forced relocation of indigenous villages and has also had adverse environmental impacts on endangered species and other biodiversity.[11] The World Bank has ignored these impacts in approving the project. Thailand's privatization strategy has taken precedence over the risks to indigenous peoples presented by the coal and gas-fired power plant. This impacts the rights of health as well as the right of self-

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[5] Eyal Press, *Texaco on Trial*, The Nation, May 31, 1999.

[6] Dr. Miguel San Sebastian and Dr. Juan Antonio Cordoba. Translation by Kristen Keating. *"Yani Curi" Report: The impact of oil development on the health of the people of the Ecuadorian Amazon.* (Departamento de Pastoral Social del Vicariator de Aguarico, London School of Hygiene and Tropical Medicine, Medicus Mundi) (June 1999).

[7] Caufield, 269.

[8] San Sebastian and Cordoba.

[9] *The World Bank and the G-7: Still Changing the Earth's Climate for Business 1997-98*, (Sustainable Energy and Economy Network (Institute for Policy Studies, USA) and International Trade Information Service (USA)), (Version 1.3 December 1998).

[10] Id.

[11] Id.

determination under Article 1 of the International Covenant on Civil and Political Rights (ICCPR).

9. The effect of trade pact provisions has led to the subversion of national democratic processes to preserve health and the environment. MTBE, a fuel additive, has been found in drinking water around California as well as other areas in the United States. Due to the dangers this additive presents to human health, the Governor of California, Gray Davis, ordered a phase-out of this chemical. Methanex, a Canadian corporation that produces the main ingredient of MTBE has filed suit under the North American Free Trade Agreement (NAFTA) claiming unfair trade discrimination. Under the agreement, Methanex will likely prevail and California will have to repeal this health protection provision.[12]
10. Similarly, Venezuela and Brazil won a decision by the WTO that the United States Clean Air Act, restricting gasoline to reduce emissions that cause smog and air pollution, is unfairly discriminatory against foreign gasoline producers and therefore was a violation of the General Agreement on Tariffs and Trade (GATT).[13] These issues present obstacles to the attainment of rights such as self-determination under Article 1 and participation in public affairs under Article 25 of the ICCPR.
11. The emphasis of right to development is on the individual human person as the prime beneficiary of economic development. The statements made by the High Commissioner for Human Rights reflect the necessity for stronger cooperation in the international economic system as well as an integrated approach to implementation of human rights which takes into account the special circumstances of globalization to ensure that individuals benefit from economic growth.[14]
12. HRA recommends the following actions:

    (1) Support for the suggestion of the Independent Expert on the Right to Development that the High Commissioner of Human Rights pursue dialogue with the World Bank and other financial institutions with a view to prevent a decline in non-income indicators of well-being such as health and nutrition at a time when average income is growing.

    (2) Support for the suggestion by the Working Group on Mechanisms that the mandate of the Special Rapporteur on Toxics be expanded to cover human rights and the environment, generally, especially in light of the complaints received by the Special Rapporteur which were outside the scope of her mandate.[15] The expansion of her mandate should include closer examination of development projects and trade pact provisions which impact the environment and present risks to the attainment of human rights such as life and health.

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[12]Simon Retallack, *The WTO's Record so Far - Corporations: 3, Humanity and the Environment: 0*, The Ecologist, Vol. 27 No. 4, July/August 1997.

[13] Jonathon Peterson, *A World of Difference in Trade Views*, Los Angeles Times, November 28, 1999.

[14] Mary Robinson. Swiss Federal Institute of Technology, Zurich, 1 July 1999.

[15] E/CN.4/1999/46, paragraph 100.